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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/538,834

01/05/2006

Meinhard Schwaiger

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09/12/2008

DYKEMA GOSSETT PLLC  
FRANKLIN SQUARE, THIRD FLOOR WEST  
1300 I STREET, NW  
WASHINGTON, DC 20005

EXAMINER

ROGERS, DAVID A

ART UNIT

PAPER NUMBER

2856

MAIL DATE

DELIVERY MODE

09/12/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |  |  |
|------------------------------|--------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/538,834 | <b>Applicant(s)</b><br>SCHWAIGER, MEINHARD |  |
|                              | <b>Examiner</b><br>DAVID A. ROGERS   | <b>Art Unit</b><br>2856                    |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-19 is/are allowed.
- 6) ☒ Claim(s) 20-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/05/06</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 U.S.C. § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 20-28 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the at least one vacuum pump being coupled to the at least one control valve via the common pressure tank. The applicant's written description makes it clear that the novelty of the apparatus is the fact that the vacuum pump(s) are coupled to the common pressure tank which is, in turn, coupled to the calibration tool and calibration bath in order to control the vacuum pulled on the calibration tool and calibration bath. This feature is missing from the claims.

### ***Allowable Subject Matter***

3. Claims 15-19 are allowed. Claims 20-28 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in above.
4. The following is an examiner's statement of reasons for allowance.

The prior art includes extrusion-type devices having calibration tools and calibration baths. See, for example, United States Patent 5,499,507 - Apparatus for cooling plastic profiles to Dorninger, United States Patent 4,411,613 - Apparatus for the

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vacuum calibration of profiled articles made of a thermoplastic synthetic resin to Gauchel *et al.*, United States Patent 4,029,452 - Apparatus for calibrating an extruded thermoplastic tube to Schippers *et al.*, United States Patent 5,340,295 - Vacuum sizing apparatus with controlled vacuum to Preiato *et al.*, United States Patent 6,244,847 - Apparatus for cooling and calibrating extruded plastic profiles to Wegmaier *et al.*, United States Patent 4,054,148 - Cooling device for liquid cooling of thermoplastic extrusions and a calibrating device for thermoplastics extrusions incorporating such a cooling device to Gurr, and United States Patent 5,514,325 - Process for cooling and calibrating elongated objects made of plastic together with cooling and calibrating device to Purstinger. The prior art does not teach using at least one pump or a plurality of pumps coupled to a common tank to draw the vacuums on the calibration tool or the calibration bath.

With regard to United States Patent 6,419,454 to Christiansen it is noted that this apparatus is directed to a pressurizing system using compressors (reference items 31-36) to pressurize a tank (reference item 50) and to distribute the pressure to various pneumatic equipment items (reference items 60-68). Christiansen does not deal with producing a vacuum. With regard to Japanese Patent JP 05131525 to Kunimatsu *et al.* it is noted that the vacuum pump (reference item 44) is indeed coupled to a tank (reference item 46) which is then coupled to a part-forming device. However, this device is looking for leaks in the part and not as part of a calibration tooling. Furthermore, the device of Kunimatsu *et al.* is not at all concerned with coupling the tank to calibration bath.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID A. ROGERS whose telephone number is (571)272-2205. The examiner can normally be reached on Monday - Friday (0730 - 1600). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David A. Rogers/  
Primary Examiner, Art Unit 2856